

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, D.C. 20591

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In the matter of the petition of

RICHARD L. WYATT

for an exemption from Sections  
103.1(b) and 103.15 of the  
Federal Aviation Regulations

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\* Regulatory Docket  
\* No. 23464  
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DENIAL OF EXEMPTION

By letter dated November 23, 1982, Mr. Richard L. Wyatt, Route 4, Box 1128, Pell City, Alabama 35125, petitioned for an exemption from Sections 103.1(b) and 103.15 of the Federal Aviation Regulations (FAR) to permit him to operate ultralight vehicles over congested areas for purposes other than sport or recreation.

Sections of the FAR affected:

Section 103.1(b) defines, in part, the term "Ultralight Vehicle." For the purpose of this part, an ultralight vehicle is a vehicle that: " . . . is used or intended to be used for recreation or sport purposes only . . . ."

Section 103.15 of the FAR prohibits a person from operating an ultralight vehicle over any congested area of a city, town, or settlement, or over any open air assembly of persons.

The petitioner's supportive information is as follows:

Mr. Wyatt requests an exemption from the above listed regulations to permit him to engage in agricultural operations, for hire, utilizing an ultralight vehicle. In addition, Mr. Wyatt wants to be allowed to conduct these operations over congested areas.

Mr. Wyatt is a certificated private pilot. If required, he would obtain a commercial certificate to meet any provisions of the exemption that the FAA may consider necessary. Mr. Wyatt has also taken the commercial pesticide test for the State of Alabama.

Mr. Wyatt states the exemption will diversify his business and help American farmers decrease their operating expenses. The ultralight vehicle will reduce the cost of leasing an aircraft by two-thirds and the cost of pesticide by one-half. This would give Mr. Wyatt a fair return on his investment and enhance the farmer's ability to make a profit.

Mr. Wyatt believes he can legally dispense pesticides from his ultralight vehicle if he does not charge for this service. He states this operation would be for sport or recreation, and in accordance with Part 103. In support of this, Mr. Wyatt states there are farmers currently using ultralight vehicles for dispensing pesticides within his state.

Additionally, Mr. Wyatt states he will flight test his ultralight vehicle, while in the dispensing configuration, for 50 hours before starting operations. He will also transport his ultralight vehicle on a trailer between spraying locations. In addition, Mr. Wyatt will be working with experienced farmers who routinely apply pesticides in accordance with Federal and state laws.

While Mr. Wyatt seems to understand the reason for prohibiting ultralight vehicles from operating over congested areas, he doesn't agree that these restrictions should apply to his proposed operations. Mr. Wyatt states he will not operate over congested areas until he has accumulated 100 hours in his ultralight vehicle.

In conclusion, Mr. Wyatt believes the exemption would be in the interest of the farmers, the Government, and himself. He thinks safety is the first priority and will "go the extra mile to insure safety . . . ."

Mr. Wyatt asked the FAA to forego the publication of his petition in the Federal Register. He states that he will need at least 60 days to prepare for the season. In effect, Mr. Wyatt has requested a waiver of the Section 11.25(b)(1) requirement that exemption request be submitted to the FAA at least 120 days in advance of the effective date of the exemption.

The FAA has determined that Mr. Wyatt failed to show that good cause exists for waiving publication and comment procedures. Therefore, the public was given an opportunity to comment on the petition.

A summary of this petition was published in the Federal Register on January 20, 1983 (48 FR 2618). No comments were received.

The FAA's analysis/summary is as follows:

On October 4, 1982, Part 103 became effective to govern the operations of ultralight vehicles in the United States. To be considered a powered-ultralight vehicle, the vehicle must weigh less than 254 pounds; be limited to 5 U.S. gallons of fuel; have a maximum speed of not more than 55 knots; and have a power-off stall speed of not more than 24 knots. Ultralight vehicles are also limited to a single occupant, and must be operated for recreational or sport purposes only. Those vehicles which exceed the above criteria are required to meet the certification requirements for a certificated aircraft.

The FAA has determined that rules governing ultralight vehicles are needed to achieve an acceptable level of safety within certain airspace, and to protect persons and property on the ground. The intent was to provide for safety with a minimum amount of regulation. Accordingly, ultralight vehicles are exempt from certification and registration requirements. Similarly, pilots of ultralight vehicles are not required to possess an FAA pilot or medical certificate.

The FAA is concerned, however, that unrestricted operations of ultralight vehicles would not be in the interest of safety. The basic purpose of Part 103 is to allow single-occupant vehicles to operate for sport or recreational purposes only, without being subjected to the same regulatory requirements imposed on certificated aircraft operations.

Additionally, the FAA does not agree with Mr. Wyatt's interpretation of the phrase "for sport or recreational purposes only," and how it would include his proposed operations. When determining applicability of Part 103, whether the operation involves compensation is not the only consideration. Any operation that has a purpose other than, or in addition to, sport or recreation, including private or commercial agricultural operations, may not be conducted under Part 103.

Although Mr. Wyatt states that he will fly his ultralight vehicle to gain operating experience, he has not shown how he will maintain an equivalent level of safety when compared to the operators who conduct agricultural operations under Part 137. The FAA is also concerned about the hazard to persons and property on the ground when utilizing a low-volume atomizer, for pesticide applications.

Further, the FAA believes that ultralight vehicles should not be allowed to operate over congested areas because these vehicles are not certificated as airworthy by any approved method. Similar limitations apply to the operations of experimental and restricted category aircraft.

The FAA does not consider, nor has Mr. Wyatt shown, that his situation is unique when compared with that of other operators of ultralights who continue to comply with Part 103 of the FAR. Furthermore, Mr. Wyatt's request is based solely on economic relief. However, financial considerations are not a reason for circumventing the safety requirements of the FAR. In this connection, Mr. Wyatt does not satisfactorily explain why an exemption would not adversely affect safety or why it would provide a level of safety equal to that provided by the regulations from which an exemption is sought.

In consideration of the foregoing, I find that a grant of exemption would not provide an equivalent level of safety and would not be in the public interest. Therefore, pursuant to the authority contained in Sections 313(a) and 601(c) of the Federal Aviation Act of 1958, delegated to me by the Administrator (14 CFR 11.53), the petition of Richard L. Wyatt for an exemption from Sections 103.1(b) and 103.15 of the Federal Aviation Regulations is hereby denied.

/s/ Bernard A. Geier  
Acting Director of  
Flight Operations

Issued in Washington, D.C., on  
April 29, 1983.